

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

FILED
APR 18 2017
Clerk, U.S. Courts
District Of Montana
Missoula Division

BRICE WALKER,

Plaintiff,

vs.

NURSE ELLIE,

Defendant.

CV 17-37-H-DLC-JTJ

ORDER

United States Magistrate Judge John Johnston entered his Findings and Recommendations in this matter on March 27, 2017, recommending dismissal of Plaintiff Brice Walker's ("Walker") Complaint and denial of his motion to proceed in forma pauperis. Walker failed to timely object to the Findings and Recommendations, and so waived his right to de novo review of the record. 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *See McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted).

Having reviewed the Findings and Recommendations, the Court finds no clear error in Judge Johnston's finding that Walker's Complaint should be dismissed without prejudice and his motion to proceed in forma pauperis should be denied. As discussed by Judge Johnston, these documents were not personally signed by Walker in contravention of Federal Rule of Civil Procedure 11(a). This rule requires that "[e]very pleading, written motion, and other paper must be signed by at least one attorney of record in the attorney's name—or by a party personally if the party is unrepresented." Fed. R. Civ. P. 11(1). Because Walker is appearing pro se, he must personally sign every pleading and motion. Consequently, Walker's Complaint will be dismissed without prejudice and his motion denied.

There being no clear error in the Findings and Recommendations, IT IS ORDERED that:

(1) Judge Johnston's Findings and Recommendations (Doc. 3) are ADOPTED IN FULL.

(2) The motion to proceed in forma pauperis (Doc. 1) is DENIED.

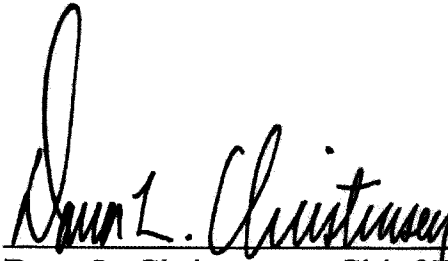
(3) The Complaint (Doc. 2) is DISMISSED WITHOUT PREJUDICE.

(4) The Clerk of Court is directed to close this matter and enter

judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

(5) The Clerk of Court is directed to serve a copy of this Order upon both Brice Walker and Shane Burd at Montana State Prison.

Dated this 18th day of April, 2017.

A handwritten signature in black ink, appearing to read "Dana L. Christensen", is written over a horizontal line.

Dana L. Christensen, Chief District Judge
United States District Court